

SS SCS HCS HB 2332 -- JUDICIAL PROCEEDINGS

This bill modifies provisions relating to crime.

FELONY CLASSIFICATIONS (Sections 192.2260, 301.559, 339.100, 400.9-501, 571.020-571.072, 632.520, and Section B)

During the 2014 session, the General Assembly passed a large-scale revision of the Missouri Criminal Code, which included the addition of a class E felony and a modification of the terms of imprisonment for class C, D, and E felonies.

Currently, the maximum term for a class C felony is seven years and the maximum term for a class D felony is four years. Beginning January 1, 2017, when SB 491 (2014) takes effect, the term of imprisonment for a class C felony will be three to 10 years, the maximum term for a class D felony will be seven years, and the maximum term for a class E felony will be four years.

To reflect the change in the authorized terms of imprisonment, this act modifies several crimes once classified as class C felonies to make them class D felonies and crimes once classified as class D felonies have become class E felonies.

ELDER ABUSE REPORTING (Sections 192.2405, 192.2410, 192.2475 and 565.188)

Currently, certain types of people must report to the Department of Health and Senior Services if the person has reasonable cause to suspect that a person 60 years of age or older or an eligible adult has been subject to abuse or neglect. This bill provides that reports only need to be made if the victim is an eligible adult. The bill further adds emergency medical technicians, firefighters, and first responder to the list of mandated reporters. A provision regarding an investigation of abuse by an in-home services client manager and local area agency on aging training is repealed.

FELONY CLASSIFICATIONS FOR OFFENSES OUTSIDE THE CODE (Section 557.021)

Currently, for offenses outside the criminal code, if the felony is for a maximum term of imprisonment of less than 10 years, it shall be considered a class D felony and if the maximum term is four years, it is a class E felony. This bill provides that to be considered a class D felony, the maximum term must exceed four years but be less than 10 years, and the maximum term to be considered a class E felony shall four years or less.

OFFENSE OF CONSPIRACY (Section 562.014)

This bill modifies the offense of conspiracy by providing that if a person conspires to commit a number of offenses, such person can be found guilty of only one offense of conspiracy if the multiple offenses are the object of the same agreement.

LAW ENFORCEMENT USE OF FORCE (Section 563.046)

Currently, the use of physical force when making an arrest is not justified unless the arrest is lawful or the officer reasonably believes the arrest is lawful. This bill adds a provision stating that the use of force when making an arrest is also not justified unless the amount of force used was objectively reasonable in light of the totality of the facts and circumstances confronting the officer, regardless of the officer's intent or motivation.

Currently, a law enforcement officer may use deadly force when he or she reasonably believes the force is immediately necessary to effect an arrest and reasonably believes the suspect has committed or attempted to commit a felony, is attempting to escape by use of a deadly weapon, or may otherwise endanger life or seriously injure another person.

This bill allows a law enforcement officer to use deadly force when effecting an arrest or preventing an escape from custody if the officer reasonably believes the force is immediately necessary to make the arrest or prevent the escape and reasonably believes the person has committed or attempted to commit a felony involving the infliction or threatened infliction of serious physical injury, is attempting to escape by use of a deadly weapon or dangerous instrument, or may otherwise pose a threat of serious physical injury to the officer or others unless arrested without delay. This provision contains an emergency clause.

FIRST DEGREE MURDER (Sections 565.030-565.040)

This bill repeals obsolete provisions stating that certain trials are to proceed in a single stage. Other technical changes were made in this bill to make the provisions align with amendments to the criminal code in SB 491 (2014).

This bill contains an emergency clause for the provisions regarding the penalty for first degree murder.

CRIMINAL NONSUPPORT (Section 568.040)

This bill removes a reference to the issue of good cause from a provision providing that the defendant has the burden of injecting certain issues.

SECOND DEGREE TAMPERING (Section 569.090)

This bill updates an intersectional reference to the stealing statute, which was reconfigured under the 2014 Criminal Code revision.

INTOXICATION-RELATED BOATING AND TRAFFIC OFFENSES (Sections 577.001, 577.010, 577.012, 577.013, 577.014, and 577.037)

This bill provides that a person is an "aggravated boating offender" if he or she has been found guilty of two or more intoxication-related boating offenses committed on separate occasions when at least one of the incidents involved the defendant injuring or killing another person while operating a vessel while intoxicated.

In addition, this bill reinserts county and municipal ordinance violations of driving under the influence of alcohol or drugs into the definition of "intoxication-related traffic offense." Such municipal and county ordinance violations are included in the definition under current law, but not in the Revised Code.

The definition of "persistent offender" was also modified under the bill to include a person who has been found guilty of one intoxication-related traffic offense in which the defendant was operating a vehicle while intoxicated and another person was injured or killed. Similar changes were made to the definition of "persistent boating offender."

This bill specifies that habitual offenders of intoxication-related traffic and boating offenses must serve two years in prison before being eligible for probation.

Under the Revised Code, if a chemical test demonstrates a blood alcohol content of less than .08, any criminal charge related to the operating of a vehicle, vessel, or aircraft while intoxicated or with excessive blood alcohol content must be dismissed unless certain other evidence exists. This bill removes the reference to offenses of operating a vehicle, vessel, or aircraft with an excessive blood alcohol content from this provision, so it only applies to operating a vehicle, vessel, or aircraft while intoxicated.

OFFENSE OF LEAVING THE SCENE OF AN ACCIDENT (Section 577.060)

This bill provides that the offense of leaving the scene of an accident is a class E felony if the defendant has previously been found guilty of the same offense.

AGROTERRORISM (Section 578.007)

Currently, certain crimes, including agroterrorism, do not apply to a list of activities, such as bona fide scientific experiments and the killing of garden pests. During the Criminal Code revision, agroterrorism was renumbered. This bill inserts the new statute number for agroterrorism to the statute providing the list of exempt activities.

MARIJUANA POSSESSION (Section 579.015)

Under the marijuana possession provision that takes effect January 1, 2017, the offense of possession of more than 10 grams but less than 36 grams of marijuana or synthetic cannabinoid is a class A misdemeanor. This bill specifies that the offense of possession of more than 10 grams but 35 grams or less of marijuana or synthetic cannabinoid is a class A misdemeanor.